

ENTERED

May 10, 2018

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

DONNY TALBERT, §
§
Plaintiff, §
VS. § CIVIL ACTION NO. 2:17-CV-317
§
FMC TECHNOLOGIES, INC., *et al*, §
§
Defendants. §

ORDER REMANDING CASE

On August 25, 2017, Plaintiff Donny R. Talbert (Talbert) filed his original petition (D.E. 1-1) in the 319th Judicial District Court of Nueces County, Texas complaining of workplace discrimination and retaliation. Defendants TechnipFMC Umbilicals, Inc. and FMC Technologies, Inc. (jointly FMC) timely removed the case to this Court on October 10, 2017, pursuant to federal question jurisdiction. FMC recited that Talbert had asserted a claim under the Sarbanes-Oxley Act (SOX), 18 U.S.C. § 1514A, protecting whistleblowers from retaliation. D.E. 1; 28 U.S.C. § 1331. Talbert initially agreed in the parties' Joint Discovery Case Management Plan (JDCMP, D.E. 5) that this Court had federal question jurisdiction under SOX. However, on April 2, 2018, Talbert filed his Motion to Remand (D.E. 11), alleging that he now asserts only state law claims.

On May 10, 2018, the Court held a status conference for the purpose of clarifying Talbert's varying statements of position and to determine whether this Court has and should exercise jurisdiction. The parties appeared by their respective attorneys. Talbert stated on the record that he no longer sought to proceed on his SOX claim and he asked

that the Court dismiss that claim. He clarified that his only retaliation claim is related to his age discrimination allegations under the Texas Commission on Human Rights Act (TCHRA), Tex. Labor Code § 21.051. He further sought to withdraw all prior representations that this Court had federal question jurisdiction pursuant to SOX.

While not opposing the dismissal of the SOX claim, FMC argued that the request for remand was too late and would be prejudicial, given that the discovery and dispositive motions deadlines were approaching and trial is set for October 2018. FMC also asserted that the state law claims were not novel, indicating that there was no reason to remand them for a state court to determine.

The Court has, by separate Order (D.E. 17), granted Talbert's oral motion to dismiss his SOX-based claims. The Court now FINDS that Talbert's claims are proceeding only under state law; he asserts no remaining federal claims. After due consideration, the Court declines to exercise its supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1337(c)(3) (permitting remand of state claims when federal claims have been dismissed). Consequently, the Court GRANTS the motion to remand (D.E. 11) and REMANDS this action to the 319th Judicial District Court of Nueces County, Texas, the court from which it was removed. The Court directs the Clerk to terminate this action.

ORDERED this 10th day of May, 2018.



NELVA GONZALES RAMOS
UNITED STATES DISTRICT JUDGE